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AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 378

Introduced by Assembly ~~Member Steinberg~~ *Members Steinberg
and Levine*

February 14, 2003

An act to amend Sections ~~1520 and 1530~~ 1513, 1520, 1530, and 1577 of, and to add Section 1515.5 to, the Code of Civil Procedure, relating to ~~escheats~~ *escheat*.

LEGISLATIVE COUNSEL'S DIGEST

AB 378, as amended, Steinberg. Escheat: insurance.

(1) Under the Unclaimed Property Law, specified intangible property that is held or owing in the ordinary course of the holder's business, and that has remained unclaimed by the owner for more than 3 years after it became payable or distributable, escheats to the state.

This bill would establish a presumption that unclaimed intangible property payable or distributable in the course of the demutualization of an insurance corporation is abandoned 3 years after either the date of last contact with the policyholder or the date the property became payable or distributable, whichever is earlier.

(2) *Under existing law, among other intangible personal property, sums payable directly by a bank or financial institution on a certified check or similar written instrument for more than 5 years, as specified, escheat to the state.*

This bill would shorten that time period to 3 years and would specify that any wages or salaries that have remained unclaimed by the owners for more than one year after payable escheat to the state.

Existing law requires every person holding funds or other property escheated to the state to file an annual report, but establishes a separate reporting period for life insurance corporations.

This bill would expand the latter provision to apply to the report of all insurance corporation demutualization proceeds subject to the above presumption.

(4) Under existing law, persons who fail to report or to pay or deliver unclaimed property to the Controller within the time prescribed are liable for interest at 12% per annum on the value of the property involved.

This bill would exempt these persons from liability for 12% interest if the failure was due to reasonable cause.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 1513 of the Code of Civil Procedure is*
2 *amended to read:*

3 1513. Subject to Sections 1510 and 1511, the following
4 property held or owing by a business association escheats to this
5 state:

6 (a) Except as provided in subdivision (f), any demand, savings,
7 or matured time deposit, or account subject to a negotiable order
8 of withdrawal, made with a banking organization, together with
9 any interest or dividends thereon, excluding, from demand
10 deposits and accounts subject to a negotiable order of withdrawal
11 only, any reasonable service charges that may lawfully be withheld
12 and that do not (where made in this state) exceed those set forth in
13 schedules filed by the banking organization from time to time with
14 the Controller, when the owner, for more than three years, has not
15 done any of the following:

16 (1) Increased or decreased the amount of the deposit, cashed an
17 interest check, or presented the passbook or other similar evidence
18 of the deposit for the crediting of interest.

19 (2) Corresponded electronically or in writing with the banking
20 organization concerning the deposit.



1 (3) Otherwise indicated an interest in the deposit as evidenced
2 by a memorandum or other record on file with the banking
3 organization.

4 A deposit or account shall not, however, escheat to the state if,
5 during the previous three years, the owner has owned another
6 deposit or account with the banking organization and, with respect
7 to that deposit or account, the owner has done any of the acts
8 described in paragraph (1), (2), or (3), and the banking
9 organization has communicated electronically or in writing with
10 the owner, at the address to which communications regarding that
11 deposit or account are regularly sent, with regard to the deposit or
12 account that would otherwise escheat under this subdivision. For
13 purposes of this subdivision, “communications” means account
14 statements or statements of interest paid for federal and state
15 income tax purposes.

16 No banking organization may discontinue any interest or
17 dividends on any savings deposit because of the inactivity
18 contemplated by this section.

19 (b) Except as provided in subdivision (f), any demand, savings,
20 or matured time deposit, or matured investment certificate, or
21 account subject to a negotiable order of withdrawal, or other
22 interest in a financial organization or any deposit made therewith,
23 and any interest or dividends thereon, excluding, from demand
24 deposits and accounts subject to a negotiable order of withdrawal
25 only, any reasonable service charges that may lawfully be withheld
26 and that do not (where made in this state) exceed those set forth in
27 schedules filed by the financial organization from time to time
28 with the Controller, when the owner, for more than three years, has
29 not done any of the following:

30 (1) Increased or decreased the amount of the funds or deposit,
31 cashed an interest check, or presented an appropriate record for the
32 crediting of interest or dividends.

33 (2) Corresponded electronically or in writing with the financial
34 organization concerning the funds or deposit.

35 (3) Otherwise indicated an interest in the funds or deposit as
36 evidenced by a memorandum or other record on file with the
37 financial organization.

38 A deposit or account shall not, however, escheat to the state if,
39 during the previous three years, the owner has owned another
40 deposit or account with the financial organization and, with

1 respect to that deposit or account, the owner has done any of the
2 acts described in paragraph (1), (2), or (3), and the financial
3 organization has communicated electronically or in writing with
4 the owner, at the address to which communications regarding that
5 deposit or account are regularly sent, with regard to the deposit or
6 account that would otherwise escheat under this subdivision. For
7 purposes of this subdivision, “communications” means account
8 statements or statements of interest paid for federal and state
9 income tax purposes.

10 No financial organization may discontinue any interest or
11 dividends on any funds paid toward purchase of shares or other
12 interest, or on any deposit, because of the inactivity contemplated
13 by this section.

14 (c) Any sum payable on a traveler’s check issued by a business
15 association that has been outstanding for more than 15 years from
16 the date of its issuance, when the owner, for more than 15 years,
17 has not corresponded in writing with the business association
18 concerning it, or otherwise indicated an interest as evidenced by
19 a memorandum or other record on file with the association.

20 (d) Any sum payable on any other written instrument on which
21 a banking or financial organization is directly liable, including, by
22 way of illustration but not of limitation, any draft or certified
23 check, that has been outstanding for more than ~~five~~ *three* years
24 from the date it was payable, or from the date of its issuance if
25 payable on demand, when the owner, for more than ~~five~~ *three*
26 years, has not corresponded electronically or in writing with the
27 banking or financial organization concerning it, or otherwise
28 indicated an interest as evidenced by a memorandum or other
29 record on file with the banking or financial organization.

30 (e) Any sum payable on a money order issued by a business
31 association (including a banking or financial organization), that
32 has been outstanding for more than seven years from the date it was
33 payable, or from the date of its issuance if payable on demand,
34 excluding any reasonable service charges that may lawfully be
35 withheld and that do not, when made in this state, exceed those set
36 forth in schedules filed by the business association from time to
37 time with the Controller, when the owner, for more than seven
38 years, has not corresponded electronically or in writing with the
39 business association, banking, or financial organization
40 concerning it, or otherwise indicated an interest as evidenced by

1 a memorandum or other record on file with the business
2 association. For the purposes of this subdivision, “reasonable
3 service charge” means a service charge that meets all of the
4 following requirements:

5 (1) It is uniformly applied to all of the issuer’s money orders.

6 (2) It is clearly disclosed to the purchaser at the time of
7 purchase and to the recipient of the money order.

8 (3) It does not begin to accrue until three years after the
9 purchase date, and it stops accruing after the value of the money
10 order escheats.

11 (4) It is permitted by contract between the issuer and the
12 purchaser.

13 (5) It does not exceed 25 cents (\$0.25) per month or the
14 aggregate amount of twenty-one dollars (\$21).

15 (f) Any funds held by a business association in an individual
16 retirement account or under a retirement plan for self-employed
17 individuals or similar account or plan established pursuant to the
18 internal revenue laws of the United States or of this state, when the
19 owner, for more than three years after the funds become payable
20 or distributable, has not done any of the following:

21 (1) Increased or decreased the principal.

22 (2) Accepted payment of principal or income.

23 (3) Corresponded electronically or in writing concerning the
24 property or otherwise indicated an interest.

25 These funds are not payable or distributable within the meaning
26 of this subdivision unless, under the terms of the account or plan,
27 distribution of all or a part of the funds would then be mandatory.

28 (g) *Any wages or salaries that have remained unclaimed by the*
29 *owner for more than one year after the wages or salaries become*
30 *payable.*

31 (h) For purposes of this section “service charges” means
32 service charges imposed because of the inactivity contemplated by
33 this section.

34 SEC. 2. Section 1515.5 is added to the Code of Civil
35 Procedure, to read:

36 1515.5. Unclaimed property payable or distributable in the
37 course of the demutualization of an insurance corporation is
38 presumed abandoned three years after either the date of last contact
39 with the policyholder or the date the property became payable or
40 distributable, whichever is earlier.

1 ~~SEC. 2. Section 1520 of the Code of Civil Procedure is~~

2 *SEC. 3. Section 1520 of the Code of Civil Procedure, as*
3 *amended by Section 3 of Chapter 813 of the Statutes of 2002, is*
4 amended to read:

5 1520. (a) All tangible personal property located in this state
6 and, subject to Section 1510, all intangible personal property,
7 except property of the classes mentioned in Sections 1511, 1513,
8 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including
9 any income or increment thereon and deducting any lawful
10 charges, that is held or owing in the ordinary course of the holder's
11 business and has remained unclaimed by the owner for more than
12 three years after it became payable or distributable escheats to this
13 state.

14 (b) Except as provided in subdivision (a) of Section 1513.5 and
15 subdivision (d) of Section 1516, if the holder has in its records an
16 address for the apparent owner of property valued at fifty dollars
17 (\$50) or more, which the holder's records do not disclose to be
18 inaccurate, the holder shall make reasonable efforts to notify the
19 owner by mail that the owner's property will escheat to the state
20 pursuant to this chapter. The notice shall be mailed not less than
21 six nor more than 12 months before the time when the owner's
22 property held by the business becomes transferable to the
23 Controller in accordance with this chapter. The notice required by
24 this subdivision shall specify the time when the property will
25 escheat and the effects of escheat, including the need to file a claim
26 in order for the owner's property to be returned to the owner. The
27 notice required by this section shall, in bold or in a font a minimum
28 of two points larger than the rest of the notice, (1) specify that since
29 the date of last activity, or for the last two years, there has been no
30 customer activity on the deposit, account, shares, or other interest;
31 (2) identify the deposit, account, shares, or other interest by
32 number or identifier; (3) indicate that the deposit, account, shares,
33 or other interest is in danger of escheating to the state; and (4)
34 specify that the California Unclaimed Property Law requires
35 banks, banking organizations, and financial organizations to
36 transfer funds of a deposit, account, shares, or other interest if it
37 has been inactive for three years. It shall also include a form, as
38 prescribed by the Controller, by which the owner may confirm the
39 owner's current address. If that form is filled out, signed by the
40 owner, and returned to the holder, it shall be deemed that the

1 account, or other device in which the owner's property is being
2 held, remains currently active and recommences the escheat
3 period.

4 (c) For purposes of this section, "lawful charges" means
5 charges which are specifically authorized by statute, other than the
6 Unclaimed Property Law, or by a valid, enforceable contract.

7 ~~SEC. 3.~~

8 SEC. 4. Section 1530 of the Code of Civil Procedure is
9 amended to read:

10 1530. (a) Every person holding funds or other property
11 escheated to this state under this chapter shall report to the
12 Controller as provided in this section.

13 (b) The report shall be on a form prescribed or approved by the
14 Controller and shall include:

15 (1) Except with respect to ~~travelers~~ *traveler's* checks and
16 money orders, the name, if known, and last known address, if any,
17 of each person appearing from the records of the holder to be the
18 owner of any property of value of at least fifty dollars (\$50)
19 escheated under this chapter.

20 (2) In *the* case of escheated funds of life insurance
21 corporations, the full name of the insured or annuitant, and his or
22 her last known address, according to the life insurance
23 corporation's records.

24 (3) In the case of the contents of a safe deposit box or other
25 safekeeping repository or in the case of other tangible property, a
26 description of the property and the place where it is held and may
27 be inspected by the Controller. The report shall set forth any
28 amounts owing to the holder for unpaid rent or storage charges and
29 for the cost of opening the safe deposit box or other safekeeping
30 repository, if any, in which the property was contained.

31 (4) The nature and identifying number, if any, or description of
32 any intangible property and the amount appearing from the records
33 to be due, except that items of value under fifty dollars (\$50) each
34 may be reported in aggregate.

35 (5) Except for any property reported in the aggregate, the date
36 when the property became payable, demandable, or returnable,
37 and the date of the last transaction with the owner with respect to
38 the property.

39 (6) Other information which the Controller prescribes by rule
40 as necessary for the administration of this chapter.

1 (c) If the holder is a successor to other persons who previously
2 held the property for the owner, or if the holder has changed his or
3 her name while holding the property, he or she shall file with his
4 or her report all prior known names and addresses of each holder
5 of the property.

6 (d) The report shall be filed before November 1 of each year as
7 of June 30 or fiscal yearend next preceding, but the report of life
8 insurance corporations, and the report of all insurance corporation
9 demutualization proceeds subject to Section 1515.5, shall be filed
10 before May 1 of each year as of December 31 next preceding. The
11 Controller may postpone the reporting date upon his or her own
12 motion or upon written request by any person required to file a
13 report.

14 (e) The report, if made by an individual, shall be verified by the
15 individual; if made by a partnership, by a partner; if made by an
16 unincorporated association or private corporation, by an officer;
17 and if made by a public corporation, by its chief fiscal officer or
18 other employee authorized by the holder.

19 *SEC. 5. Section 1577 of the Code of Civil Procedure is*
20 *amended to read:*

21 1577. In addition to any damages, penalties, or fines for which
22 a person may be liable under other provisions of law, any person
23 who fails to report or pay or deliver unclaimed property within the
24 time prescribed by this chapter, *unless that failure is due to*
25 *reasonable cause*, shall pay to the State Controller interest at the
26 rate of 12 percent per annum on ~~such~~ *that* property or value thereof
27 from the date ~~such~~ *the* property should have been *reported or* paid
28 or delivered.

